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RUEHBJ/AMEMBASSY BEIJING 2689
RUEHLO/AMEMBASSY LONDON 2004
RUEHFR/AMEMBASSY PARIS 6040
RUEHUL/AMEMBASSY SEOUL 8716
RUEHGP/AMEMBASSY SINGAPORE 7149
RUEHFT/AMCONSUL FRANKFURT 0473
RUEHFK/AMCONSUL FUKUOKA 7139
RUEHHK/AMCONSUL HONG KONG 6482
RUEHOK/AMCONSUL OSAKA KOBE 0808
RUEHKSO/AMCONSUL SAPPORO 7733
RUEHGH/AMCONSUL SHANGHAI 0381

C O N F I D E N T I A L SECTION 01 OF 02 TOKYO 000956

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DEPT FOR EAP AND EEB/OIA
DEPT PASS USTR FOR CUTLER AND BEEMAN
TREASURY DEPT FOR DAS NOVA DALY, AND IA/CARNES
USDOC FOR 4410/ITA/MAC/OJ
NSC FOR TONG

E.O. 12958: DECL: 04/08/2013
TAGS: [EINV](#) [ENRG](#) [PGOV](#) [OECD](#) [JA](#)
SUBJECT: METI SIGNALS OPPOSITION TO TCI INVESTMENT IN
J-POWER CASE

REF: A. TOKYO 828
[1](#)B. TOKYO 408
[1](#)C. TOKYO 402
[1](#)D. TOKYO 317
[1](#)E. 07 TOKYO 2688
[1](#)F. 07 TOKYO 454

Classified By: Ambassador J Thomas Schieffer. Reason 1.4(b)(d)

[1](#)1. (C) Summary: The Ministry of Economy, Trade and Industry (METI) signaled again April 5 it opposes the proposal by UK-based Children's Investment Master Fund (TCI) to increase its investment in electricity wholesaler Electric Power Development Company (known as J-Power.) In January, TCI, which is already J-Power's largest investor, applied to double its stake in the firm to 19.9 percent. The GOJ has asked TCI representatives to appear at an April 11 meeting of the Ministry of Finance's (MOF) Council on Customs, Tariff, Foreign Exchange and Other Transactions, to explain why it wishes to increase its investment and to address a list of METI concerns, most of which would not be under the power or authority of a minority investor. A lawyer for TCI believes METI officials have already made up their minds about the case. End Summary

[1](#)2. (SBU) Under Japan's Foreign Exchange and Foreign Trade Control Law (FEFTC), foreign investment exceeding 10 percent in companies operating critical infrastructure, such as J-Power, requires prior notification and government approval (refs E-F). The GOJ has never rejected a proposed investment under the law. According to J-Power's most recent annual report, non-Japanese now own approximately 40 percent of the firm's shares.

[1](#)3. (C) METI has sent TCI's representatives a list of its concerns about the proposed investment. They include a potential threat to a cheap and stable electricity supplies if TCI were to force J-Power to increase its dividend; the risk of a disruption in the nuclear fuel cycle if TCI were to

force J-Power to suspend a planned nuclear power project; damage to "public order" as a result of leak of sensitive high technology to foreign countries; and damage to Japanese consumers from a rise in electricity charges. The Ministry has asked TCI to address these concerns in an hour-long presentation to the MOF Council April 11. Except for the first point above, none of the concerns METI raises are potentially within the authority of a minority shareholder, a status TCI would retain even if the government approves its application.

¶4. (SBU) J-Power operates over 60 thermal and hydropower generating plants, accounting for seven percent of Japan's power generating capacity. It is the sole owner of trunk electricity transmission lines between Japan's main island of Honshu and Hokkaido, Kyushu, and Shikoku. TCI began accumulating J-Power shares in 2006 and since March 2007 has been the firm's largest shareholder. In June 2007, at J-Power's annual general shareholder meeting, the Fund made a shareholder proposal to increase the company's dividend, claiming J-Power held excessive assets in cash and its return on assets and equity were below those of comparable firms in the Japanese power sector, including Japan's nine regional power utilities. Shareholders defeated TCI's proposal, but the former state-owned enterprise has worked since to improve its financial indicators. J-Power executives also insist the company needs a larger than normal cash cushion to deal with unexpected contingencies arising from construction of its first nuclear power station in Oma Township, Aomori Prefecture. To allay GOJ fears that the Fund's investment threatens that project, TCI has made written commitments it would not vote its shares on any matters related to the

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development of the Oma plant.

¶5. (U) Since TCI announced its intention to raise its stake in J-Power, senior METI officials have expressed repeated suspicion of TCI's motives. METI Minister Akira Amari told a December 4 press conference, "I personally cannot conceive that the rights to manage this company would be transferred to foreign hands." METI Vice Minister Kitabata was quoted in the press April 8 saying TCI's investment could have an impact on the stable supply of electricity as well as the GOJ's policies on nuclear power.

¶6. (C) An attorney for TCI reports METI officials have made up their minds about TCI's application and are now seeking to convince the rest of the government. The Fund also has sharply criticized METI's lack of transparency in handling the case. The Ministry's concerns are quite broad -- in the words of TCI's lawyers, "almost theological" -- but the law does not limit the GOJ to objecting to a proposed investment only on national security grounds. TCI already has stated publicly, if its proposed investment is rejected, it will advise other foreign funds to disinvest from the Japanese market.

¶7. (C) Comment: Despite press headlines, the GOJ has made no final decision on this case, but this latest development demonstrates deep suspicions within METI towards TCI's intentions (refs B-D.) METI also believes the country's electricity grid is a "strategic asset" that must be kept in Japanese control, a position reinforced by the ministry's long history of regulatory control of the power sector, including J-Power before the firm's 2003 privatization. However, METI's concerns appear excessive since TCI's proposed investment would not give the Fund control of the company. Nevertheless, the USG's interest in the case, as we made clear in our discussion with METI at last month's Investment Working Group (ref A), is limited to ensuring security reviews under the FEFTC are fair and transparent. British Embassy sources here have also told us HMG is taking a low-key approach, pushing the GOJ to be transparent and noting the value of foreign investment in general rather than pushing this individual investment effort.

